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Circular Letter: DHCQ 05-12-456

TO: Chief Executive Officers
Acute Care Hospitals

FROM: Paul I. Dreyer, Ph.D.
Associate Commissioner

DATE: December 12, 2005

RE: Emergency Contraception

The purpose of this memo is to update you on the implementation of certain sections of chapter 91 of the Acts of 2005, *An Act Providing Timely Access to Emergency Contraception*, which will take effect on December 14, 2005.

Section 3 of Chapter 91 adds a new element to the patients' rights set forth in M.G.L. c.111, §70E ("Section 70E"), which must be provided to patients upon admission and posted in facilities:

(o) if the patient is a female rape victim of childbearing age, to receive medically and factually accurate written information prepared by the commissioner of public health about emergency contraception; to be promptly offered emergency contraception; and to be provided with emergency contraception upon request.

Hospitals must update their materials accordingly.

Section 4 of Chapter 91 requires the following of facilities as defined in Section 70E:

- Facilities must require all persons who provide care to victims of sexual assault to be provided with medically and factually accurate written information prepared by the Commissioner of Public Health about emergency contraception.

- Facilities must promptly provide medically and factually accurate written information about emergency contraception prepared by the Commissioner of Public Health to every female rape victim of childbearing age who presents at a facility after a rape.
- Facilities that provide emergency care must promptly offer emergency contraception at the facility to each female rape victim of childbearing age, and must initiate emergency contraception upon her request.
- Facilities must report to the Department of Public Health the number of times that emergency contraception is provided to victims of rape.

The Department of Public Health (“Department”) is promulgating emergency amendments to 105 CMR 130.000, *Hospital Licensure*, regarding these requirements. A copy of the amendments, and copies of the information about emergency contraception prepared by the Department, are enclosed.

The Department will require the above-noted reporting to be done on the Provider Sexual Crime Report (“PSCR”), which hospitals are already required to complete pursuant to M.G.L. c.112, § 12A ½. The PSCR has been revised to add a new question 36 under section F to capture this information. The Executive Office of Public Safety (“EOPS”) will transmit the information about emergency contraception on an annual basis to the Department; thus, completion of the PSCR, including question 36, will satisfy the above-noted reporting requirement.

The amended PSCR is enclosed. **Hospitals should begin using this amended form immediately.** EOPS will update the sexual assault evidence collection kits to include this new form and will distribute the updated kits in the spring of 2006. If there are any questions regarding the amended PSCR please contact the EOPS Massachusetts Analysis Center at 617-725-3301.

Should you have questions about this letter, please contact Jill Mazzola at 617-753-8106.

Enclosures

Proposed Amendments to 105 CMR 130.000 (Hospital Licensure) for Emergency Promulgation on December 20, 2005

130.1040: Definition of Emergency Contraception

For the purposes of 105 CMR 130.1041 through 130.1043, “emergency contraception” shall mean any drug that is approved by the federal Food and Drug Administration and that is used as a contraceptive method after sexual intercourse.

130.1041: Emergency Contraception Information for Providers

Each hospital that is licensed to provide emergency services shall provide all persons who provide care to victims of sexual assault with medically and factually accurate written information prepared by the Department about emergency contraception.

130.1042: Emergency Contraception Information and Services for Rape Victims

Each hospital that is licensed to provide emergency services shall promptly provide the following to each female rape victim of childbearing age who presents at the emergency department:

- (A) Medically and factually accurate written information provided by the Department about emergency contraception;
- (B) An offer of emergency contraception at the hospital if medically indicated; and
- (C) Dispensing of emergency contraception at her request unless medically contraindicated.

130.1043: Reporting the Dispensing of Emergency Contraception

(A) Each hospital shall report each time that it dispenses emergency contraception pursuant to 105 CMR 130.1042 on the Provider Sexual Crime Report that it completes in accordance with M.G.L. c.112, § 12A ½.

(B) The report of the dispensing of emergency contraception made pursuant to 105 CMR 130.1043(A) is not a public record as defined in M.G.L. c. 4, §7.